

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>BRIAN KOZINA, on behalf of himself and all others similarly situated,</b>	)	
	)	<b>Case No. 1:18-cv-1820</b>
Plaintiff,	)	
	)	<b>Judge Donald C. Nugent</b>
v.	)	
	)	<b><u>ORDER OF DISMISSAL WITH</u></b>
<b>A.I.S. COMMERCIAL PARTS &amp; SERVICE, INC.,</b>	)	<b><u>PREJUDICE AND APPROVAL OF</u></b>
	)	<b><u>SETTLEMENT</u></b>
Defendant.	)	

This matter is before the Court on the Parties' Joint Motion for Approval of Settlement and Stipulation of Dismissal With Prejudice ("Joint Motion") pursuant to § 16(b) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b). The Joint Motion asks the Court to approve, as fair and reasonable, the proposed Settlement reached by the Parties and memorialized in the Joint Stipulation of Settlement and Release ("Settlement" or "Agreement") attached to the Joint Motion as Exhibit A.

Having reviewed the Joint Motion, the Agreement and its Exhibits, the Declaration of Hans A. Nilges, and the pleadings and papers on file in this Action, and for good cause established therein, the Court enters this Stipulated Order of Dismissal and Approval of Settlement, the Agreement and its Exhibits, the proposed allocation and calculation of Individual Payments, the proposed Service Award to the Representative Plaintiff, and the proposed attorneys' fees and expense reimbursements to Plaintiff's Counsel, as follows:

1. The captioned Action asserts wage-and-hour claims under the FLSA, 29 U.S.C. §§ 201, *et seq.*, and Ohio law on behalf of hourly office employees who allegedly received an unpaid lunch break.

2. On August 7, 2018, Representative Plaintiff Brian Kozina filed this Action as a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, and alleged that Defendant failed to pay hourly employees compensation for all of the hours they worked over forty (40) each workweek, in violation of the FLSA, 29 U.S.C. § 207 and Ohio wage and hour law (the “Action”). On September 21, 2018, Representative Plaintiff filed an Amended Complaint setting forth the same allegations. On August 31, 2018 and October 4, 2018 respectively, Defendant filed an Answer to the Complaint and to the Amended Complaint disputing the material allegations both as to fact and law and denying any liability to Representative Plaintiff or any other hourly employees, and asserting several affirmative defenses.

3. Between May 2019 and June 2019 the Parties engaged in an informal yet comprehensive exchange of information regarding Plaintiff’s claims and Defendant’s defenses to such claims. This included the time records for the Opt-In Party Plaintiffs’.

4. In June 2019, the Parties engaged in settlement negotiations and, thereafter, reached an agreement to settle the Action on the terms set forth in the Settlement Agreement attached to the Parties’ Joint Motion as Exhibit A. The proposed Settlement eliminates the time, cost, and uncertainty of further litigation.

5. The Settlement will cover Representative Plaintiff and Michael Markowski, JoaAnn Mikels, and Karen Burlingame (collectively the “Opt In Party Plaintiffs”) who opted-in to this lawsuit (“Settlement Class” or “Class Members”).

6. The Settlement Agreement provides that, in consideration of the Total Settlement Payment, the claims of the Representative Plaintiff and Opt-In Party Plaintiffs are to be dismissed with prejudice.

7. The Court finds that the proposed Settlement is fair and reasonable and satisfies the standard for approval under § 16(b) of the FLSA, 29 U.S.C. § 216(b). The Court finds that the

Settlement resulted from arms-length negotiations between experienced counsel after substantial investigation. Plaintiff's Counsel has informed the Court that they believe the Settlement is fair, reasonable, and adequate and in the best interests of the Representative Plaintiff and Opt-In Party Plaintiffs. The Court has considered all relevant factors, including the risk, complexity, expense, and likely duration of the litigation; the extent of investigation; the amount offered in the Settlement; and the experience and views of counsel for the Parties.

8. The Court approves the Agreement and its Exhibits, and orders that the Settlement be implemented according to the terms and conditions of the Agreement and as directed herein. The Court grants final approval of the Settlement as to the Representative Plaintiff and Opt-In Plaintiffs.

9. The Court finds that the proposed allocation and calculation of the Individual Payments to Class Members are fair and reasonable. The Court approves the amounts and orders that such payments be distributed in the manner, and subject to the terms and conditions, set forth in the Agreement.

10. The Court approves the Class Representative Payment to the Representative Plaintiff in recognition of his service in the Action, and orders that such payment be made in the manner, and subject to the terms and conditions, set forth in the Agreement.

11. The Court approves the payment of attorneys' fees and expense reimbursements to Plaintiff's Counsel as provided in the Agreement, and orders that such payments be distributed in the manner, and subject to the terms and conditions, set forth in the Settlement Agreement.

12. The Court dismisses the claims of the Representative Plaintiff and Opt-In Party Plaintiffs, and enters final judgment dismissing them from the Action. The Court finds there is no just reason for delay and directs the Clerk of the Court to enter this Stipulated Order of Dismissal With Prejudice and Approving Settlement immediately.

13. The Court retains jurisdiction over the Action to enforce the terms of the Settlement, including the distribution process.

**SO ORDERED:**

Date: \_\_\_\_\_

July 3, 2019

Donald C. Nugent  
Donald C. Nugent  
United States District Judge

**SO STIPULATED:**

/s/ Hans A. Nilges

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